

Rafey S. Balabanian, ILB #6285687*
rbalabanian@edelson.com
Eve-Lynn J. Rapp, ILB #6300632*
erapp@edelson.com
Lily E. Hough, SBN #315277*
lhough@edelson.com
EDELSON PC
123 Townsend Street, Suite 100
San Francisco, California 94107
Tel: 415.212.9300
Fax: 415.373.9435

* Admitted *pro hac vice*

(additional counsel listed on signature page)

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

LORI WAKEFIELD, on behalf of
themselves and a class of others similarly
situated,

Plaintiff,

v.

VISALUS, INC., a Nevada Corporation,

Defendant.

No. 3:15-cv-01857-MS

**UNOPPOSED MOTION TO STAY
CASE PENDING MEDIATION**

LR 7.1 CERTIFICATION

The undersigned counsel certify that they have conferred with counsel for Defendant ViSalus, Inc. (“Defendant”) and are authorized to state that Defendant agrees to the relief requested herein.

UNOPPOSED MOTION

Plaintiff Lori Wakefield (“Plaintiff”), without opposition from Defendant, hereby respectfully moves the Court for an order staying proceedings for seventy-five days (75) while the parties attempt to mediate this matter. In support of this Unopposed Motion, Plaintiff states as follows:

1. On April 12, 2019, the jury returned its verdict in this case, finding that Defendant violated the TCPA 1,850,440 times, including four calls to Plaintiff, the class representative, and 1,836,336 calls to absent class members. (Dkt. 282.)

2. Subsequently, the Court decided not to enhance damages for willfulness, and denied Defendant’s motion to decertify the class. (Dkts. 326, 344.)

3. On October 25, 2019, Defendant filed a motion requesting that the Court reduce damages in its final judgment on grounds that the statutory damages are constitutionally excessive. (Dkt. 358.) The parties have fully briefed that motion. (Dkts. 362, 363.)

4. The parties have since agreed to mediate this matter. Accordingly, Plaintiff requests (without opposition from Defendant) a seventy-five (75) day stay of the proceedings in this matter, after which point the parties will submit a joint status report informing the Court of their progress.¹

5. “United States district courts have inherent authority to stay proceedings, for the power to stay ‘is incidental to the power inherent in every court to control the disposition of the

¹ Plaintiff’s counsel will notify the Court in writing whether settlement was achieved not later than seven days following the conclusion of any private ADR proceedings, in accordance with Local Rule 16-4(h). Further, if a substantial agreement about the terms and conditions of a settlement is reached prior to that date, Plaintiff’s counsel will notify the Court’s deputy clerk of the impending settlement, in accordance with Local Rule 41-1(a).

causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”

Nat. Res. Def. Council v. Kempthorne, No. 1:05-CV-01207 LJO, 2015 WL 3750305, at *6 (E.D. Cal. June 15, 2015) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)).

6. A stay is appropriate here because it would both benefit the parties and conserve judicial resources by allowing the parties to explore resolution without requiring them to expend additional time and effort litigating the matter at the same time. Thus, good cause exists to grant the relief requested, and the relief is not being sought for any improper purpose.

7. For these reasons, Plaintiff respectfully requests (without opposition from Defendant) that the Court enter an Order (i) staying the case for seventy-five (75) days, and (ii) providing such other and further relief that the Court deems reasonable and just.

Respectfully submitted,

**LORI WAKEFIELD, individually and on behalf
of all similarly situated individuals,**

Dated: January 16, 2020

/s/ Lily E. Hough _____

Rafey S. Balabanian, ILB #6285687*
rbalabanian@edelson.com
Eve-Lynn J. Rapp, ILB #6300632*
erapp@edelson.com
Lily E. Hough, SBN #315277*
EDELSON PC
123 Townsend Street, Suite 100
San Francisco, California 94107
Tel: 415.212.9300
Fax: 415.373.9435

Simon Franzini, Cal. Bar #287631*
simon@dovel.com
Gregory S. Dovel, Cal. Bar #135387*
greg@dovel.com
Jonas Jacobson, Cal. Bar #269912*
jonas@dovel.com
DOVEL & LUNER, LLP
201 Santa Monica Blvd., Suite 600

Santa Monica, California 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

Scott F. Kocher, OSB#015088
Stephen J. Voorhees, OSB#150595
FORUM LAW GROUP
811 S.W. Naito Parkway, Suite 420
Portland, Oregon 97204
Tel: 503.445.2120
Fax: 503.445.2120

Attorneys for Plaintiff and the Class

CERTIFICATE OF SERVICE

I, Lily E. Hough, an attorney, certify that on January 16, 2020, I served the foregoing by causing true and accurate copies of such paper to be transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

/s/ _____ Lily E. Hough _____